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9 KAISER FOUNDATION HOSPITALS and  
10 THE PERMANENTE MEDICAL GROUP, INC.

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UNITED STATES DISTRICT COURT

13

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

14 JAMILAH ABDUL-HAQQ,

CASE NO. 4:14-cv-04140-PJH

15 Plaintiff,

16 v.

17 KAISER FOUNDATION HOSPITALS, THE  
18 PERMANENTE MEDICAL GROUP, INC.  
19 (TPMG), CALIFORNIA NURSES  
20 ASSOCIATION,

NOTICE OF MOTION AND  
ADMINISTRATIVE MOTION TO  
CONSIDER WHETHER CASES SHOULD  
BE RELATED

21 Defendants.

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1 PLEASE TAKE NOTICE that Defendants Kaiser Foundation Hospitals and The  
2 Permanente Medical Group, Inc. (collectively, "Defendants") hereby move, pursuant to Civil  
3 Local Rules 3-12 and 7-11, to have the following two cases be deemed related:

- 4 1. *Jamilah Abdul-Haqq v. Kaiser Foundation Hospitals, The Permanente Medical*  
5 *Group, Inc., et al.*, United States District Court for the Northern District of  
6 California, Case No. 4:14-cv-04140-PJH, assigned to the Honorable Phyllis J.  
7 Hamilton (the "2014 Case").
- 8 2. *Jamilah Abdul-Haqq v. Kaiser Emergency in San Leandro a part of the*  
9 *Permanente Medical Group, Inc., et al.*, United States District Court for the  
10 Northern District of California, Case No. 3:16-cv-5454 EDL, assigned to the  
11 Honorable Elizabeth D. Laporte (the "2016 Case").

12 **POINTS AND AUTHORITIES IN SUPPORT OF MOTION**

13 Civil Local Rule 3-12 provides that "an action is related to another when (1) [t]he actions  
14 concern substantially the same parties, property, transaction, or event; and (2) [i]t appears likely  
15 that there will be an unduly burdensome duplication of labor and expense or conflicting results if  
16 the cases are conducted before different Judges. These criteria are met.<sup>1</sup>

17 1. **Background**

18 Both the *2014 Case* and the *2016 Case* involve the same *pro se* Plaintiff, Jamilah Abdul-  
19 Haqq ("Plaintiff"), and the same Defendants, The Permanente Medical Group ("TPMG") and  
20 Kaiser Foundation Hospitals ("KFH"). Both cases concern Plaintiff's employment with TPMG as  
21 an emergency room nurse.

22 A. **The 2014 Case**

23 On September 2, 2014, Plaintiff filed the *2014 Case*, alleging eight causes of action against  
24 TPMG, KFH, and the California Nurses Association ("CNA"): (1) violation of Title VII of the  
25 Civil Rights Act; (2) failure to prevent discrimination, harassment, and hostile work environment;  
26 (3) violation of the Americans with Disabilities Act ("ADA"); (4) failure to engage in the

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28 <sup>1</sup> Although requested, Plaintiff did not stipulate that the cases are related. (Pooley Dec., ¶ 2.)

1 interactive process under the California Fair Employment and Housing Act ("FEHA");  
 2 (5) intentional infliction of emotional distress; (6) violation of FEHA; (7) "breach of fair  
 3 representation" and "failure to initiate grievance procedure"; and (8) negligence and breach of  
 4 fiduciary duty. Claims (7) and (8) were asserted against the CNA only. Claims (1) through (6)  
 5 were asserted against TPMG and KFH.

6 In the *2014 Case*, Plaintiff alleged that she is an African-American female with PTSD,  
 7 employed by TPMG as a registered nurse since 2006. (Second Amended Complaint ("SAC"),  
 8 ¶¶ 7, 13, 88.) She alleged that she started her employment in Santa Clara, then transferred to  
 9 Vacaville, and subsequently transferred to Antioch. (*Id.* at ¶¶ 7, 13, 24, 28.) She alleged that,  
 10 throughout her employment with TPMG, she "had endured deceptive managerial practices." (*Id.*  
 11 at ¶ 13.) The allegedly deceptive managerial practices allegedly included delayed investigations  
 12 of complaints, failure to meet with her, delayed "interactive process," and delaying her return to  
 13 work from a leave of absence. (*Id.* at ¶¶ 31, 34, 36, 37, 39, 41, 53.) She alleged that these  
 14 practices were "triggers that cause [her] extreme psychological and physiological distress." (*Id.* at  
 15 ¶ 16.) She alleged that she had filed numerous workers' compensation claims. (*Id.* at ¶¶ 8, 32, 42,  
 16 43, 63, 110.)

17 On January 23, 2015, this Court granted Defendants' and the CNA's motions to dismiss  
 18 Plaintiff's First Amended Complaint, with leave to amend. On April 10, 2015, this Court granted  
 19 Defendants' motion to dismiss Plaintiff's Second Amended Complaint, with prejudice, on the  
 20 grounds that Plaintiff had failed to exhaust her administrative remedies and had failed to state a  
 21 claim upon which relief could be granted.<sup>2</sup> On October 4, 2016, the Ninth Circuit affirmed the  
 22 dismissal. (Dkt. No. 80.) On October 5, 2016, Plaintiff filed a "Notice of Appeal" and a "Motion  
 23 for Reconsideration from Dispositive Order" in the Ninth Circuit. (Pooley Dec., ¶ 3.)

#### 24           B.       The 2016 Case

25 On September 23, 2016, Plaintiff filed the *2016 Case*, alleging six causes of action against  
 26 Defendants: (1) discrimination of disability; (2) harassment for having a disability; (3) intentional

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27 <sup>2</sup> Plaintiff did not allege any claims against the CNA in her Second Amended Complaint.  
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1 infliction of emotional distress; (4) failure to prevent harassment; (5) unauthorized video and  
 2 audio recording; and (6) retaliation for whistleblowing.<sup>3</sup>

3 In the *2016 Case*, Plaintiff alleges that she is an African-American female with an anxiety  
 4 disorder, employed by TPMG as a registered nurse since 2006. (Compl., ¶¶ 5, 11, 13.) She  
 5 alleges that she started her employment in Santa Clara and now works in San Leandro. (*Id.* at  
 6 ¶¶ 5, 11.) She alleges that "she has endured deceptive managerial practices consistently  
 7 throughout her employment." (*Id.* at ¶ 11.) The allegedly deceptive managerial practices  
 8 allegedly include delayed investigation, failure to meet with her, and work assignments. (*Id.* at  
 9 ¶¶ 19, 24.) She alleges that these practices "are behind triggers that causes [her] extreme  
 10 psychological and physiological distress." (*Id.* at ¶ 39.) She alleges that she had filed several  
 11 workers' compensation claims. (*Id.* at ¶¶ 8, 17.)

12       **2. Discussion**

13       These two cases meet the definition of "related cases" provided in Civil Local  
 14 Rule 3-12(a). To start, the actions concern the same parties and substantially the same events.  
 15 The gravamen of both complaints is that throughout Plaintiff's employment with TPMG, she has  
 16 continuously endured "deceptive managerial practices," which cause her distress. Additionally,  
 17 both cases involve the same claims of discrimination, accommodation, harassment, and intentional  
 18 infliction of emotional distress. The only new allegations that surface in the *2016 Case* are claims  
 19 that: (1) Defendants engaged in "unauthorized video and audio recording" and (2) Plaintiff was  
 20 subjected to retaliation for whistleblowing about "deceptive managerial practices." (Compl. ¶¶ 42-  
 21 45.)

22       Moreover, there will be an unduly burdensome duplication of labor and expense, and  
 23 potentially conflicting results, if the cases remain before different Judges. Although the *2014 Case*  
 24 has been affirmed on appeal, Plaintiff has filed a Motion for Reconsideration in the Ninth Circuit.  
 25 (Pooley Dec., ¶ 3.) Thus, it is possible that it could be remanded to this Court for further  
 26 proceedings. Further, even if the *2014 Case* is not remanded, the overlap of parties and

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27       <sup>3</sup> Although the Complaint caption lists eight causes of action, only six are alleged in the body of  
 28 the Complaint.

1 underlying facts will inevitably produce duplicative work. Finally, counsel for Defendants in both  
2 cases is the same and, in each case, Plaintiff represents herself.

3 **CONCLUSION**

4 For the reasons explained herein, the parties respectfully request that this Court order that  
5 the *2014 Case* and the *2016 Case* be deemed related and so notify the Clerk of the Court pursuant  
6 to Civil Local Rule 3-12(f)(3).

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8 DATED: October 13, 2016

Respectfully submitted,

9 HANSON BRIDGETT LLP

10  
11 By:

  
Lisa M. Pooley

12 Attorneys for Defendants  
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14 THE PERMANENTE MEDICAL GROUP, INC.  
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